

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

DARREN CLARK AND DAVID CLARK

PLAINTIFFS

V.

CIVIL ACTION NO. 5:09CV8-DCB-JMR

INTERNATIONAL PAPER COMPANY, ET AL.

DEFENDANTS

JOINT MOTION FOR APPROVAL OF
THIRD PARTY SETTLEMENT AS TO DAVID CLARK

COMES NOW the plaintiff David Clark, joined by the defendant International Paper Company and statutory workers' compensation lienholder, Zurich American Insurance Company ("Zurich"), and moves the Court for entry of an order approving a third party settlement, as follows:

1. On or about May 3, 2008, David Clark was employed by RMR Mechanical, Inc. ("RMR") and was in the course and scope of his employment when he was injured as the result of an explosion at International Paper Company's Vicksburg, Mississippi mill. He sustained first and second-degree burns to his face and second and third degree burns to both hands. He also suffered smoke inhalation and has been diagnosed with tinnitus and mild hearing loss in his left ear and with post-traumatic stress disorder. He was released to return to work without restrictions on July 1, 2008.

2. Zurich has paid medical benefits of \$69,019.03 and indemnity benefits of \$1,994.65 to or on behalf of David Clark as a result of this incident.

3. David Clark has asserted a claim against a third party, International Paper Company, for the damages he sustained as a result of the above described incident. Through counsel, he has engaged in extensive discovery and settlement negotiations, as a result of which he has agreed to a compromise settlement of his claim against International Paper Company.

4. The parties have agreed that the terms of the compromise settlement are confidential and accordingly not to be recited in this petition, but those terms have been fully disclosed to the Court.

5. Zurich has agreed not to assert any claim for reimbursement from the proceeds of the compromise settlement for the workers' compensation benefits it has paid to or on behalf of David Clark, and to waive any statutory lien for reimbursement and exoneration that it may have against International Paper Company.

6. Pursuant to the settlement agreement, and as consideration therefor, David Clark and Zurich will execute a full, final and complete release and discharge of all claims which they may have against International Paper Company as a result of the injuries sustained by David Clark in the incident described hereinabove, including medical expense and indemnity benefits paid by Zurich. The release will further discharge RMR and Zurich from any and all claims for further benefits under the provisions of the Mississippi Workers' Compensation Act.

7. David Clark represents that his claim against International Paper Company is doubtful, disputed and cannot be readily collected, and that the proposed compromise settlement would be in his best interest.

FOR THESE REASONS, plaintiff David Clark, International Paper Company and Zurich move that the proposed confidential compromise settlement outlined herein be approved as being in plaintiff's best interest; that David Clark and Zurich be authorized to execute and deliver a full, final and complete release and discharge of International Paper Company from any and all liability as a result of the injuries sustained by David Clark; and that David Clark be further authorized to release RMR and Zurich from any and all liability to him under the Mississippi Workers' Compensation Act.

Respectfully submitted,

/s/ Jonah A. Flynn

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Dated: January 27, 2010

ATTORNEY FOR DEFENDANT
INTERNATIONAL PAPER COMPANY